

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the City of West Bend for the Establishment of a Public Crossing of the Wisconsin Central Ltd. Tracks with Rail Way in the City of West Bend, Washington County

9164-RX-618

FINAL DECISION

By letter dated October 31, 2005, the City of West Bend petitioned the Office of the Commissioner of Railroads (OCR) for the establishment of a public crossing of the Wisconsin Central Ltd. (WCL) tracks with Rail Way located in the City of West Bend, Washington County.

Jurisdiction: Secs. 195.28 and 195.29, Stats.

Pursuant to due notice, public hearing was held in this matter on December 15, 2005 in West Bend, Wisconsin with hearing examiner Douglas S. Wood presiding.

On January 3, 2006, the hearing examiner issued a proposed decision. The OCR received no comments on the proposed decision. The Commissioner adopts the proposed decision as final without change.

Appearances:

Parties

City of West Bend, Petitioner
by
Mary Schanning
City Attorney
1115 S. Main Street
West Bend, WI 53095

As Interest May Appear:

Wisconsin Central Ltd.
by
Terry Lee, PE
Manager Public Works
1625 Depot Street
Stevens Point, Wisconsin 54481

Findings of Fact

THE COMMISSIONER FINDS:

The City plans to extend Rail Way across the tracks as part of its new River Road Industrial Park.

Rail Way will be 29' wide (back-to-back of curb) and will intersect the tracks at an angle of 87°. The crossing consists of one mainline track. The track ends about 0.6 miles north of the proposed crossing. There are switches to sidings located about 75' south and over 200' north of the proposed crossing.

The new roadway is needed to serve planned development within the River Road Industrial Park. Rail Way will extend west from River Road (CTH 'G'), cross the tracks, and terminate about 400' west of the tracks. Initially Rail Way will provide the sole access to the sites west of the tracks. These lots comprise some 46 acres. The City has an obligation, however, to extend Hron Road south from Rail Way to provide access to CTH 'NN' by the end of 2008. The completion of this secondary access is critical, especially for emergency services.

The **Commissioner orders** that completion of the Hron Road connection for emergency vehicle be completed by the end of 2006 as a condition of approval of the Rail Way crossing. Without the Hron Road connection Rail Way will provide the sole access for some 1500 vehicles each day. When a train blocks the crossing there will be no way in or out of this 46-acre development. If a train stops on the crossing due to mechanical failure or any other reason, then this area would be without access until the train could be moved. A train could block the crossing during a medical, fire, or police emergency. While such an event is unlikely to occur in the next two years, the consequences could be catastrophic and the solution is at hand – acceleration of the Hron Road project. At a minimum, the base for Hron Road should be constructed so that emergency vehicles could use it as an alternate access.

The City projects Rail Way will carry 1500 ADT (average daily traffic) in 2006 and 2800 ADT in 2026. The speed limit will be 25 mph.

The railroad currently operates a switch train over this location 3 to 5 days per week. It takes about 4 moves over the crossing to serve the customers. Train speed is typically 10 to 20 mph.

A driver traveling at 25 mph needs a distance of 187' to stop safely. The crossing will be visible from more than 187' in each direction. Assuming a train speed of 20 mph, a driver traveling at 25 mph needs to see a train when it is 210' from the crossing from a point 187' down the highway. The sight distance available in each quadrant from the safe stopping distance will be adequate, except in the southeast quadrant.

The land in the southeast quadrant is not currently in the City of West Bend. As an alternative to clearing the southeast sight triangle the City proposed to install stop signs at the crossing. The Commissioner finds that clearing the sight triangle and requiring permanent vision easements within

the sight triangle in all 4 quadrants is a better way to provide for public safety.

Stop signs at crossings on roadways with 1500 ADT and only infrequent train traffic tend not to be obeyed. It is unreasonable to require 1500 vehicles to stop for 2 trains per day 3 to 5 times per week. Requiring permanent vision easements will provide for adequate sight distance for all drivers approaching the crossing.

The order requires that the City acquire permanent sight easements to create and maintain a clear view within the required sight triangles in each quadrant. The Commissioner notes that much of the vision triangle will be located within the existing roadway or railroad right-of-way.

At all crossings, except those with gates, a driver stopped 15' short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15' past the far rail, prior to the arrival of a train. Required clearing sight distance along both directions of the track, from the stopped position of the vehicle, is dependent upon the maximum train speed and the acceleration characteristics of the "design" vehicle. The necessary clearing sight distance at the Rail Way crossing is 450'. The available clearing sight distance is more than 450'.

The exposure factor at this crossing will be about 3000-6000 on days when trains operate. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

Crossbucks and advance warning signs in conjunction with the acquisition and clearing of the vision triangles will adequately protect public safety.

In summary, the establishment of the crossing at-grade of the Wisconsin Central Ltd. tracks with Rail Way will promote public safety and convenience.

Source of funding: The City of West Bend shall bear all costs for the establishment of the crossing.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

1. That the establishment of the crossing at-grade of Rail Way with the Wisconsin Central Ltd. tracks in accordance with the design plans of the City of West Bend in the City of West Bend, Washington County will promote public safety and convenience.

2. That establishment of the crossing is advisable under all the circumstances.

3. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks.

4. That it is reasonable that the Wisconsin Central Ltd. bear no part of the cost for the crossing construction.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin Central Ltd.** shall install and maintain a crossing at-grade of **Rail Way** with its tracks in accordance with the design plans of the City of West Bend in the City of West Bend, Washington County by **October 31, 2006**.

2. That the **Wisconsin Central Ltd.** shall install and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossing of its tracks with **Rail Way** at-grade in the City of West Bend, Washington County by **October 31, 2006**.

3. That the **City of West Bend** shall obtain permanent easements to provide a clear view within the required sight triangles (except that part within the railroad right-of-way). That the **City of West Bend** shall remove any obstructions within those sight triangles (except that part within the railroad right-of-way), including earth embankments, as part of the project. The triangles are formed by connecting the following points: a) the intersection of the centerline of the roadway and the near rail of the tracks; b) a point 210' down the tracks and; c) a point 187' along the roadway from the near rail of the tracks.

4. That the **Wisconsin Central Ltd.** shall clear brush and trees from its right-of-way for 330' down the tracks in each direction from the **Rail Way** crossing by **October 31, 2006**.

5. That the **City of West Bend** shall clear brush and trees from its highway right-of-way for 330' down the highway in each direction from the **Rail Way** crossing by **October 31, 2006**.

6. That the **City of West Bend** shall install and maintain advance warning

signs (sign W10-1) at a distance from the crossing in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) on each approach by **October 31, 2006**.

7. That the **City of West Bend** shall construct and open **Hron Road** to emergency vehicle access from its current terminus to **Rail Way** by the **date that the Rail Way crossing is opened** and shall construct and open **Hron Road** to public use from its current terminus to **Rail Way** no later than **October 31, 2008**.

8. That the **Wisconsin Central Ltd.** shall bear no part of the cost of the crossing construction, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

9. That jurisdiction is retained.

Dated at Madison, Wisconsin, (January 24, 2006).

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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